

For at least the foregoing reasons, the present application is thought to be clearly in condition for allowance. Therefore, reconsideration and allowance are respectfully requested. If the Examiner has any suggestions for placing the application in even better form, the Examiner is invited to telephone the undersigned.

Any fees associated with the filing of this paper should be identified in any accompanying transmittal. However, if any additional fees are required, they may be charged to Deposit Account 18-0013 in the name of Rader, Fishman & Grauer PLLC.

Respectfully submitted,



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Claims Appendix

For the convenience of the Examiner, and in accordance with 37 CFR 1.121(c)(1)(ii), all pending claims are presented below in their current form. No amendments were made by the current paper.

1. (Amended) A set-top terminal for connecting a subscriber to a cable network, said terminal comprising:

a processor; and

a memory unit,

wherein the processor monitors an out-of-band control channel of the cable network for information indicating that a download of data or programming is available and indicating a specified in-band channel for receiving the download of data or programming offered to said set-top terminal over said cable network, wherein said processor only accepts said download on said specified in-band channel and records said download in said memory unit when one or more predetermined criteria are satisfied, and wherein said criteria when satisfied indicates that acceptance of said download will cause a minimum of interference with said subscriber's use of said set-top terminal.

2. (Once Amended) The terminal of claim 1, wherein said one or more criteria are downloaded to said set-top terminal over said cable network.

3. (Unchanged) The terminal of claim 1, wherein said set-top terminal verifies that said data or programming offered as said download is not already resident in said memory.

4. (Unchanged) The terminal of claim 1, wherein said set-top terminal verifies that said data or programming offered as said download is specified as being intended for a class of terminals to which said set-top terminal belongs.

5. (once amended) The terminal of claim 1, wherein said one or more criteria include a time of day.

6. (Unchanged) The terminal of claim 1, wherein said one or more criteria include whether said set-top terminal is turned off.

7. (once amended) The terminal of claim 1, wherein said one or more criteria include a deadline by which acceptance of said download is required by an operator of said cable network, said deadline being a specific point in time subsequent to an initial offering of said download of data or programming.

8. (Unchanged) The terminal of claim 7, wherein said set-top terminal defers said deadline if said set-top terminal is being used to provide a dedicated service including recording programming in conjunction with a VCR or providing pay-per-view programming.

9. (Unchanged) The terminal of claim 1, wherein said set-top terminal signals said subscriber that said download is available and requests permission to accept said download, said one or more criteria including a positive response by said subscriber to said request for permission to accept said download.

10. (Once Amended) The terminal of claim 1, wherein said set-top terminal tunes to said specified in-band channel to receive said download if said one or more criteria are satisfied.

11. (Unchanged) The terminal of claim 1, wherein if said one or more criteria are satisfied, said processor erases information in said memory unit and replaces said erased information with data or programming from said download.

12. (Unchanged) The terminal of claim 1, wherein following said download of programming, said processor will only execute newly-received

programming from said download when one or more predetermined criteria are satisfied.

13. (Unchanged) The terminal of claim 1, wherein, prior to accepting said download, said processor determines whether any programming is stored in said memory which is not being executed, but which is identified as being a later version than programming being executed by said processor at that time; if said processor locates any such later version of programming in memory, said processor will terminate execution of the programming being executed, erase said terminated programming from memory and reset so as to execute said later version of said programming.

14. (Unchanged) The terminal of claim 1, wherein, when said one or more criteria for accepting said download have been satisfied, said processor will erase from said memory any older, non-executing version of said programming already resident in memory and replace said erased programming with new programming from said download.

15. (Unchanged) The terminal of claim 1, wherein said memory unit is logically partitioned into two sections, a first section for containing programming being executed by said processor and a second section for receiving and storing programming from said download.

16. (Once Amended) The terminal of claim 1, wherein each download of programming contains two versions of a programming object, a first programming object for storage in and execution from a first memory section of said memory unit and a second programming object for storage in and execution from a second memory section, of said memory unit wherein said processor downloads one of said two versions of programming in accordance with whether said first or second memory sections is vacant.

17. (Unchanged) The terminal of claim 1, wherein said memory unit comprises two separate memory devices, a first memory device for containing programming being executed by said processor and a second memory device for receiving and storing programming from said download.

18. (amended) A set-top terminal for connecting a subscriber to a cable network, said terminal comprising:

a processor; and

a memory unit,

wherein the processor monitors the cable network for information indicating that a download is available and indicating a specified channel for receiving the offered download, wherein said terminal occasionally receives said download over said cable network of new programming on said specified channel; and

wherein following said download of programming, said processor will only execute said new programming from said download when one or more predetermined criteria are satisfied that indicate executing said new programming will not inconvenience said subscriber.

19. (Unchanged) The terminal of claim 18, wherein said one or more criteria include whether said set-top terminal is turned off.

20. (Unchanged) The terminal of claim 18, wherein said one or more criteria include detection of a commercial break in television programming being received by said set-top terminal.

21. (Unchanged) The terminal of claim 18, wherein said one or more criteria include a deadline by which implementation of said new programming is required by an operator of said cable network.

22. (Unchanged) The terminal of claim 21, wherein said set-top terminal defers said deadline if said set-top terminal is being used to provide a dedicated

service including recording programming in conjunction with a VCR or providing pay-per-view programming.

23. (Unchanged) The terminal of claim 18, wherein said set-top terminal signals said subscriber that new programming has been received and is ready for execution and requests permission to execute said new programming, said one or more criteria including a positive response by said subscriber to said request for permission to execute said new programming.

24. A method for minimizing interruptions to use of a set-top terminal that connects a subscriber to a cable network where said interruptions result from downloading data or programming to said set-top terminal over said cable network, the method comprising the steps of:

receiving a signal from a headend identifying a specified in-band channel on which said download is available, wherein the received signal is obtained via an out-of-band control channel of the cable network; and

accepting said download on said specified in-band channel only when one or more predetermined criteria are satisfied, said criteria when satisfied indicating that acceptance of said download will not interfere with said subscriber's use of said set-top terminal.

25. (Once Amended) The method of claim 24, further comprising downloading said one or more criteria to said set-top terminal over said cable network.

26. (Unchanged) The method of claim 24, further comprising verifying that said data or programming offered as said download is not already resident in said set-top terminal.

27. (Unchanged) The method of claim 24, wherein said method further comprising verifying whether said one or more predetermined criteria are satisfied.

28. (Unchanged) The method of claim 27, wherein said verifying comprises comparing a time of day against a predetermined acceptable time of day for accepting a download.

29. (Unchanged) The method of claim 27, wherein said verifying comprises determining whether said set-top terminal is turned off.

30. (Unchanged) The method of claim 24, further comprising signaling said subscriber that said download is available and requesting permission to accept said download, wherein said one or more criteria include receiving a positive response by said subscriber to said request for permission to accept said download.

31. (Unchanged) The method of claim 24, further comprising, subsequent to said download of programming, executing newly-received programming from said download only when one or more predetermined criteria are satisfied.

32. (Unchanged) The method of claim 24, wherein, prior to accepting said download, said method comprises:

determining whether any programming is stored in said memory which is not being executed, but which is identified as being a later version than programming running on said set-top terminal at that time; and,

if any such later version of programming is located in memory, terminating execution of the programming being executed, erasing said terminated programming from memory and resetting said set-top terminal so as to execute said later version of said programming.

33. (Unchanged) The method of claim 24, wherein, when said one or more criteria for accepting said download have been satisfied, said method further comprises erasing from said memory any older, non-executing version of said programming already resident in memory and replace said erased programming with new programming from said download.

34. (Once Amended) The method of claim 24, further comprising partitioning said memory unit into two memory sections, a first memory section for containing programming being executed by said processor and a second memory section for receiving and storing programming from said download.

35. (Unchanged) The method of claim 34, wherein each download of programming contains two versions of a programming object, a first programming object for storage in and execution from said first memory section and a second programming object for storage in and execution from said second memory section, wherein said method further comprises selectively downloading one of said two versions of programming in accordance with whether said first or second memory section is vacant.

36. A method for implementing upgraded programming received in a set-top terminal for connecting a subscriber to a cable network, said method comprising the steps of:

receiving a signal from a headend identifying a specified in-band channel on which a download of upgraded programming is offered, wherein the received signal is obtained via an out-of-band control channel of the cable network; and

terminating execution of existing programming and commencing execution of said upgraded programming only when one or more predetermined criteria are satisfied.

37. (Unchanged) The method of claim 36, wherein said one or more criteria include whether said set-top terminal is turned off.

38. (Unchanged) The method of claim 36, wherein said one or more criteria include detection of a commercial break in television programming being received by said set-top terminal.

39. (Unchanged) The method of claim 36, wherein said one or more criteria include a deadline by which implementation of said new programming is required by an operator of said cable network.

40. (Unchanged) The method of claim 39, further comprising deferring said deadline if said set-top terminal is being used to provide a dedicated service including recording programming in conjunction with a VCR or providing pay-per-view programming.

41. (Once amended) A set-top terminal for connecting a subscriber to a cable network, said terminal comprising:

- a processor unit comprising a first processor and a second processor; and
- a memory unit;

wherein said first processor is dedicated to providing a user interface and said second processor is dedicated to monitoring an out-of-band channel for information indicating that a download of data or programming is available, indicating a specified in-band channel for receiving the download, and managing a download of data or programming offered to said set-top terminal over said cable network through the specified in-band channel such that said first processor can maintain said user interface including user services while said second processor manages the download.

42. (New) The terminal of claim 1, wherein said programming is received in packets, said terminal being configured to reassemble said packets into an executable object and stored into non-volatile memory.

43. (new) A set-top terminal for connecting a subscriber to a cable network, said terminal comprising:

- a processor; and
- a memory unit,

wherein the processor monitors transmissions over said cable network for information indicating that a download of data or programming is available and indicating a specified channel for receiving the download of data or programming

offered to said set-top terminal over said cable network, wherein said processor only accepts a download and records said download in said memory unit when one or more predetermined criteria are satisfied that indicate that acceptance of said download will cause a minimum of interference with said subscriber's use of said set-top terminal; and

wherein said one or more criteria include a deadline by which acceptance of said download is required by an operator of said cable network, said deadline being a specific point in time subsequent to an initial offering of said download of data or programming.

44. (new) The terminal of claim 43, wherein said set-top terminal defers said deadline if said set-top terminal is being used to provide a dedicated service including recording programming in conjunction with a video cassette recorder or providing pay-per-view programming.

45. (new) A method of operating a set-top terminal for connecting a subscriber to a cable network, wherein said set-top terminal comprises a processor and a memory unit, said memory unit storing programming that is executed by said processor during operation of said set-top terminal, wherein said memory unit further comprises at least two versions of said programming, a newer version and an older version, said method comprising:

executing said newer version of said programming upon start-up of said set-top terminal;

receiving a command via said cable network to switch versions of said programming; and

terminating execution of said newer version of said programming and beginning execution of said older version of said programming in response to receipt of said command.

46. (new) The method of claim 45, further comprising erasing said newer version of programming from said memory and restarting said set-top terminal to begin execution of said older version of programming.

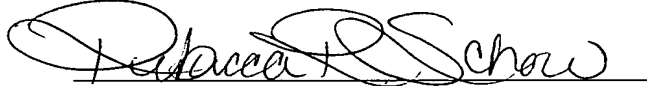
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CERTIFICATE OF MAILING

DATE OF DEPOSIT: **December 5, 2002**

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, on the date indicated above in an envelope addressed to:
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A handwritten signature in black ink, appearing to read "Rebecca R. Schow", is written over a horizontal line.

Rebecca R. Schow